

TRANSPORTATION CABINET

Steven L. Beshear Governor

Frankfort, Kentucky 40622 www.transportation.ky.gov/

Michael W. Hancock, P.E. Acting Secretary

March 19, 2010

Ms. Lee Anne Devine Chief South Regulatory Section U.S. Army Corps of Engineers – Louisville District 600 Dr. Martin Luther King Jr. Place Louisville, Kentucky 40202 Mr. Alan Grant Kentucky Division of Water 200 Fair Oaks Frankfort, Kentucky 40601

Subject:

Application for Section 404 NWP Permit &

Section 401 Water Quality Certification

KY 698 Realignment Project Lincoln County, Kentucky KYTC Item No: 8-141.00

Dear Ms. Devine and Mr. Grant:

The Kentucky Transportation Cabinet respectfully submits this Application for a Section 404 Nationwide Permit & Section 401 Water Quality Certification for the KY 698 (Mason Gap Rd.) horizontal curvature correction and widening improvement in Lincoln County, Kentucky. The realignment project will result in unavoidable impact to an intermittent stream (see application).

Section 106 of the National Historic Preservation Act has been addressed through in-house consultation with KYTC professional staff. This project is federally funded and, as such, the Federal Highway Administration has addressed issues related to the NHPA. Attached for your consideration is correspondence from KYTC that indicates that the project will have No Adverse Effect on historic properties.

Section 7 of the Endangered Species Act (ESA) has been addressed through in-house consultation with KYTC subject matter experts. This project is federally funded and, as such, the Federal Highway Administration has addressed issues related to the ESA. Attached for your consideration is a copy of the endangered species list for Lincoln County, provided by USFWS, KDFWR and KSNPC. Indiana Bats have been addressed using the USFW Programmatic Biological Opinion on Indiana Bats by accounting for 1.76 acres using the Indiana Bat Conservation Fund.

Enclosed you should find all necessary information in order to make a permit determination. If anything is missing that you need to assist you or you have any questions please contact me by email RoyC.Collins@ky.gov or by phone 502-564-7250.

Sincerely.

Roy Collins

Permit Coordinator

11.71

RECEIVED

MAR 2 3 2010

WATER QUALITY BRANCH

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SUMMARY OF SECTION 404 & 401 IMPACTS

Lincoln County KY 698 (Mason Gap Road) Item No. 8-141

1. STA # 15+70 – Construct roadway impacting 416' of an U.T. to Neal's Creek at approximately location: Latitude N 37°29'11" Longitude E 84°40'28". After construction this portion of the stream will be conveyed through culvert and constructed channel to connect the water flow. Field investigations indicate this stream is intermittent in nature with a watershed of approx. 40 acres. The impact to the water is .03 acres. (NWP #14 & Individual WQC)

Mitigation

KYTC respectfully request to mitigate for the impact of this project in the form of an in-lieu fee payment made into the Ky Dept. of Fish and Wildlife Resources in-lieu fee program. The stream is in poor condition with an intermittent flow regime which entails a 1:1 ratio. For 416' of stream impact KYTC proposes an in-lieu fee of \$49,920.

High Gradient Stream Data Sheet STREAM NAME: TRIB TO NEALS CREEK LOCATION: KEMTUCKY STATION: /6+00 DRAINAGE AREA (AC) BASIN/WATERSHED LAT: 37°29'11" USGS 7.5 TOPO; HALLS GAP LONG: 84°40'28" COUNTY; LINCOLN DATE: 3/3/10 TIME: 3 : D AM ATPM INVESTIGATORS; TYPE SAMPLE: P-CHEM ☐ FISH ☐ BACT. ☐ Macroinvertebrate Has there been a heavy rain in the last 7 days? WEATHER: Now Past 24 hours □Yes ☐ Heavy rain Air temperature ☐ Steady rain °F. Inches rainfall in past 24 hours □Intermittent showers 5 % Cloud Cover □Clear/sunny P-Chem: Temp (°F) D.O. (mg/l) % Saturation pH(S.U.) Cond.µs ☐ Grab **INSTREAM WATERSHED** LOCAL WATERSHED FEATURES: **FEATURES** Stream Width EOW ft Predominant Surrounding Land Use: Forest Stream Width BF ft Surface Mining Construction Pasture/Grazing Range of Depth ft Deep Mining 2 Commercial Oil Wells Industrial Silviculture Bank Full Depth ft П Urban Runoff/Storm Sewers Est. Reach Length ft Land Disposal ☐ Row Crops Stream Type; Hydraulic Structures: Stream Flow; Intermittent Low D Normal ☐ Perennial Dams **Bridge Abutments** Dry □ Pooled High ☐ Ephemeral □ Seep Island Waterfalls Very Rapid or Torrential Other Culverts Riparian Vegetation: Dom. Tree/Shrub Taxa Canopy Cover; Channel Alterations; Fully Exposed (0-25%) Dominate Type: Dredging Partially Exposed (25-50%) Channelization Trees Shrubs Full Partial) Grasses Herbaceous Partially Shaded (50-75%) Number of Strata Fully Shaded (75-100%) CULVERT Pool Z Est. □ P.C Riffle Substrate Run: Silt/Clay (<0.06 mm) Sand (0.06-2 mm) Gravel (2-64 mm) Cobble (64-256 mm) Boulders (>256 mm) Bedrock Habitat **Condition Category** Poor Parameter Optimal Suboptimal Marginal 40-70% mix of stable habitat; 20-40% mix of stable habitat; Less than 20-% stable Greater than 70% of substrate habitat" lack of habitat is well suited for full habitat availability less than 1. **Epifaunal** favorable for epifaunal Substrate/ colonization and fish cover; mix colonization potential; desirable; substrate obvious; substrate unstable of snags, submerged logs. Available adequate habitat for frequently disturbed or or lacking. maintenance of populations; undercut banks, cobble or other removed. Cover stable habitat and at stage to presence of additional allow full colonization potential substrate in the form of new (i.e., logs/snags that are not new fall, but not yet prepared for colonization (may rate at high fall and not transient. end of scale). SCORE 19 18 15 14 13 12 11 10 9 (8) 5 4 3 2 1 17 16 Gravel, cobble, and boulder Gravel, cobble, and boulder Gravel, cobble, and Gravel, cobble, and boulder Embeddedness particles are 0-25% surrounded particles are 25-50% particles are 50-75% boulder particles are more surrounded by fine sediment. than 75% surrounded by by fine sediment. Layering of surrounded by fine sediment. fine sediment. cobble provides diversity of niche space. SCORE 13 12 (11) 5 4 3 2 1 7 6 20 19 18 17 16 15 14 10 9 8 All four velocity/depth regimes Only 3 of the 4 regimes Only 2 of the 4 habitat Dominated by 1 velocity/depth regime. 3. Velocity/Depth Regime present (slow-deep, slowpresent (if fast-shallow is regimes present (if fastmissing, score lower than if shallow or slow shallow are shallow, fast-deep, fast-shallow.

missing other regimes)

15 14 13

12 11

missing, score low)

10 9 8

7 6

4 3 2 1

Deep > 1.5 feet.

18

17

16

20 19

SCORE

4. Sediment Deposition	Little or no enlargement of islands or point bars and less than 5% of the bottom affected by sediment deposition.	Some new increase in bar formation, mostly from gravel, sand or fine sediment; 5-30% of the bottom affected; slight deposition in pools.	Moderate deposition of new gravel, sand or fine sediment on old and new bars; 30-50% of the bottom affected; sediment deposits at obstructions, constrictions, and bends; moderate	development; more than 50% of the bottom changing frequently; pools almost absent due to substantial sediment deposition.			
SCORE	20 19 18 17 16	15 14 13 12 11	deposition of pools prevalent.	5 4 3 2 1 0			
5. Channel Flow Status	Water reaches base of both lower banks, and minimal amount of channel substrate is	Water fills > 75% of the available channel; or <25% of channel substrate is	Water fills 25-75% of the available channel, and/or riffle substrates are mostly	Very little water in channel and mostly present as standing pools.			
SCORE	exposed.	exposed.	exposed.				
6. Channel Alteration	20 19 18 17 16 Channelization or dredging absent or minimal; stream with normal pattern.	Some channelization present, usually in areas of bridge abutments; evidence of past channelization, i.e., dredging, (greater than past 20 yr.) may be present, but recent channelization is not present.	Channelization may be extensive; embankments or shoring structures present on both banks; and 40-80% of stream reach channelized and disrupted.	Banks shored with gabion of cement; over 80% of the stream reach channelized and disrupted. Instream habitat greatly altered or removed entirely.			
SCORE	20 19 18 17 16	15 14 13 (12) 11	10 9 8 7 6	5 4 3 2 1 0			
7 Frequency of Riffles	Occurrence of riffles relatively frequent; spacing between riffles 5 to 7 stream widths. Variety of habitat is key. In streams where riffles are continuous, boulders or logs are important.	Occurrence of riffles infrequent; distance between riffles divided by stream width is between 7 to 15.	Occasional riffle or bend: bottom contours provide some habitat; distance between riffles divided by stream width is between 15 to 25.	Generally all flat water or shallow riffles; poor habitat; distance between riffles divided by stream width is > than 25.			
SCORE	20 19 18 17 (16)	15 14 13 12 11	10 9 8 7 6	5 4 3 2 1 0			
8. Bank Stability	Banks stable; evidence of erosion or bank failure absent or minimal; little potential for future problems. <5% of bank affected.	Moderately stable, infrequent, small areas of erosion mostly healed over. 5-30% of bank in reach has areas of erosion.	Moderately unstable, 30-60% of bank in reach has areas of erosion, high erosion potential during floods.	Unstable, many eroded areas, "raw" areas frequently along straight sections and bends; obvious bank sloughing; 60-100% of bank has erosional scars.			
SCORE (LB)	Left Bank 10 9	8 7 6	5 4 3	2 (1) 0			
SCORE (RB)	Right Bank 10 9	8 7 6	5 4 3	2 1 0			
9. Vegetative Protection (score each bank)	More than 90% of the streambank surfaces and immediate riparian zone covered by native vegetation, including trees, understory shrubs, or nonwoody macrophytes; vegetative disruption through grazing or mowing minimal or not evident; almost all plants allowed to grow naturally.	70-90% of the streambank surfaces covered by native vegetation, but one class of plants is not well-represented; disruption evident but not affecting full plant growth potential to any great extent; more than one-half of the potential plant stubble height remaining. 50-70% of the streambank surfaces covered by vegetation; disruption obvious; patches of bare soil or closely cropped vegetation common; less than one-half of the potential plant stubble height remaining.		Less than 50% of the streambank surfaces covered by vegetation; disruptive of streambank vegetation is very high; vegetation has been removed to 5 centimeters or less in average stubble height.			
SCORE (LB)	Left Bank 10 9	8 7 6	5 4 3	(2) 1 0			
SCORE (RB)	Right Bank 10 9	8 7 6	5 4 3	2 1 0			
10. Riparian Vegetative Zone Width (score each bank riparian zone).	Width of riparian zone > 18 meters; human activities (i.e., parking lots, roadbeds, clear- cuts, lawns, or crops) have not impacted zone	Width of riparian zone 12-18 meters; human activities have impacted zone only minimally.	Width of riparian zone 6-12 meters; human activities have impacted zone a great deal.	Width of riparian zone <6 meters; little or no riparian vegetation due to human activities.			
SCORE (LB)	Left Bank 10 9	8 7 6	(5) 4 3	2 1 0			
SCORE (RB) Total Score	Right Bank 10 9	8 7 6	5 4 3	2 1 0			

Total Score

80

MEMORANDUM

TO: CENTRAL FILES

DIVISION OF ENVIRONMENTAL ANALYSIS

FROM: CARL R. SHIELDS

ARCHAEOLOGIST

DIVISION OF ENVIRONMENTAL ANALYSIS

SUBJECT: ARCHAEOLOGY

PROPOSED KY 698 WIDENING AND RECONSTRUCTION

LINCOLN COUNTY, KY

KYTC ITEM NUMBER: 8-141.00

DATE: October 22, 2007

On October 9, 2007, a Phase I archaeological survey was conducted on the subject project (see attached). This work entailed pedestrian survey. The majority of the project consists of very steep slopes. Some areas outside the existing right-of-way, but within the project area, are highly disturbed by utility construction.

No cultural artifacts were recovered and no intact cultural deposits were identified during this survey. Therefore, this area contains no archaeological sites eligible for the National Register of Historic Places (NRHP). This project is cleared archaeologically.

If the project plans change, additional archaeological survey may be required. If human remains are accidentally discovered or a previously unidentified archaeological site is encountered, work must cease and this office notified immediately.

Cc w/ attachment:

Randall Thomas Cathi Blair (District 8) James Hixon Reading Files Archaeology Files



Kentucky Transportation Cabinet

HABITAT ASSESSMENT

KYTC Item No:	8 - 141	Route:	Ky 698	
Quadrangle(s):	Halls Gap	County(les):	Lincoln	

Project Description:

Project will include the widening and slight realignment of the current Ky 698. The project begins at the Water Treatment Plant Road and extends southwest to Mason Gap Road. This road is utilized by several large garbage trucks that are hauling to the Tri-K Landfill which is located on Mason Gap. The large volume of truck traffic, steep inclines, narrow lanes and virtually non-existent shoulders create a safety issue for vehicles along this section of Ky 698.

Listed Species: (Attach copy of USFWS county list, KSNPC web site and KDFWR web site)

Myotis sodalis (Indiana bat), Myotis grisescens (gray bat) listed on the USFWS county list; Villosa trabilis (Cumberland bean pearly mussel) listed on the USFWS county list, the KDFWR web site and the KSNPC web site; and Pleurobema clava (clubshell mussel) listed on the KSNPC web site.

Methodologies:

Field surveys were conducted by Zack Couch, DEA in 2006 and Cathi Blair, D8 EC in July 2007. Topographic maps, wetland maps, aerial photos and GIS were all reviewed in the District office.

Results:

Both mussel species require perennial streams for habitat. This project does not cross any perennial streams therefore there is no habitat present for the mussel species. Also the *Villosa trabilis* is a Cumberlandian mussel and this project is not in the Cumberland River watershed.

No cave systems, bridges, mine openings or tunnels are located in the project area so therefore there is no gray bat habitat/roosting area in the project area. This project will not directly impact any streams with wooded banks or open water wetlands so therefore no potential foraging corridors are impacted.

The project will impact some acreage that contains potential summer roosting habitat for the Indiana bat. The District concludes that there this project "May Affect" Indiana bat habitat and therefore a contribution to the Indiana Bat Conservation fund will be made based on the total acreage of potential IB habitat affected.

Determinations:

The project has been assessed in accordance with the provisions of Section 7 of the Endangered Species Act, and KYTC concludes that the project will have No Effect on *Villosa trabilis, Pleurobema clava,* or *Myotis grisescens* or their critical habitat and that further consultation with the Service for these species is not required.

allu Blan		4-21-07	
KYTC Signature		Date	
Carni Blair			
Print Name			
Oracle SYP Milestone Updated	Cathi Blair	7-27-07	-
	Name	Date	

KENTUCKY TRANSPORTATION CASINET

Indiana Bat Conservation Fund

Commitment for Use of Take

Item No.: 8 - 141 Route: KY 698 County: Lincoln
Description of project areas requiring "take": Woodland area south-southwest of existing highway between mile markers 10.61 - 10.76.
Amount of Take: 1.76 acres trees Mean Land Cost/ac: \$ 3000 (amount)
Anticipated Value of Take: \$1056.007 \$ 1003. 2
Attachments: ፫ Maps ፫ Photographs ፫ Other: Project w/ calculated acreage
The amount listed above has been determined in accordance with the Programmatic Biological Opinion issued by the US Fish and Wildlife Service June 9, 2006, any subsequent amendments thereto, and the KYTC Habitat Assessment Manual.
Jami West, DEC Gami Watt H2910 (Name of Biologist of DEC) Signature Date
As Project Manager, I understand that this authorization for use of the IBCF represents an irretrievable commitment for the referenced project. Furthermore, I acknowledge that Design funds are available for immediate payment of this expense.
(Name of Project Manager) 12/4/09 12/4/09 129/10 Date
Following completion, route form to Ecology and Permitting Branch Manager, Division of Environmental Analysis
FOR DEA USE ONLY
Approved: 12/4/09 // Signature
All appropriate entries to reflect use of the take have been entered into the Environmental Analysis Tracking System.
Reported to USFWS: 1/29/10 Date Signature

Report of Endangered, Threatened, and Special Concern Plants, Animals, and Natural Communities for Lincoln County, Kentucky

Kentucky State Nature Preserves
Commission
801 Schenkel Lane
Frankfort, KY 40601
(502) 573-2886 (phone)
(502) 573-2355 (fax)

www.naturepreserves.ky.gov

Kentucky State Nature Preserves Commission Key for County List Report

Within a county, elements are arranged first by taxonomic complexity (plants first, natural communities last), and second by scientific name. A key to status, ranks, and count data fields follows.

STATUS

KSNPC: Kentucky State Nature Preserves Commission status:

N or blank = none E =endangered T =threatened S =special concern H =historic X =extirpated

USESA: U.S. Fish and Wildlife Service status:

blank = none C = candidate LT = listed as threatened LE = listed as endangered

SOMC = Species of Management Concern

RANKS

GRANK: Estimate of element abundance on a global scale:

G1 = Critically imperiled GU = Unrankable

G2 = Imperiled G#? = Inexact rank (e.g. G2?)
G3 = Vulnerable G#Q = Questionable taxonomy

G4 = Apparently secure G#T# = Infraspecific taxa (Subspecies and variety abundances are coded with a 'T' suffix; the 'G'

G5 = Secure portion of the rank then refers to the entire species)

GH = Historic, possibly extinct GNR = Unranked

GX = Presumed extinct GNA = Not applicable

SRANK: Estimate of element abundance in Kentucky:

S1 = Critically imperiled SU = Unrankable Migratory species may have separate ranks for different

 S2 = Imperiled
 S#? = Inexact rank (e.g. G2?)
 population segments (e.g. S1B, S2N, S4M):

 S3 = Vulnerable
 S#Q = Questionable taxonomy
 S#B = Rank of breeding population

 S4 = Apparently secure
 S#T# = Infraspecific taxa
 S#N = Rank of non-breeding population

 S5 = Secure
 SNR = Unranked
 S#M = Rank of transient population

SH = Historic, possibly extirpated SNA = Not applicable

SX = Presumed extirpated

COUNT DATA FIELDS

 ${\it \# OF OCCURRENCES: Number of occurrences of a particular element from a county. Column headings are as follows:}$

E - currently reported from the county

H - reported from the county but not seen for at least 20 years

F - reported from county & cannot be relocated but for which further inventory is needed

X - known to have extirpated from the county

U - reported from a county but cannot be mapped to a quadrangle or exact location.

Data current as of February 2009

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County Report of Endangered, Threatened, and Special Concern Plants, Animals, and Natural Communities of Kentucky Kentucky State Nature Preserves Commission

Rentucky 50	tate Nature Preserves Comm	uissioii				# of	Occur	rences		
County	Taxonomic Group	Scientific name	Common name	Statuses	Ranks	E	Н	F	X	U
Lincoln	Vascular Plants	Bouteloua curtipendula	Side-oats Grama	S/	G5 / S3?	2	0	0	0	0
Lincoln	Vascular Plants	Calopogon tuberosus	Grass Pink	E/	G5 / S1	0	2	0	0	0
incoln	Vascular Plants	Carex crawei	Crawe's Sedge	S/	G5 / S2S3	1	0	0	0	0
incoln	Vascular Plants	Carex tetanica	Rigid Sedge	E/	G4G5 / S1?	1	0	0	0	0
incoln	Vascular Plants	Hydrophyllum virginianum	Eastern Waterleaf	T/	G5 / S2?	1	0	0	0	0
incoln	Vascular Plants	Lespedeza capitata	Round-head Bush-clover	S/	G5 / S3	1	0	0	0	0
incoln	Vascular Plants	Lonicera prolifera	Grape Honeysuckle	E/	G5/S1	1	0	0	0	0
incoln	Vascular Plants	Onosmodium hispidissimum	Hairy False Gromwell	Ē/	G4G5T4 / S1	1	0	0	0	0
incoln	Vascular Plants	Spiranthes magnicamporum	Great Plains Ladies'-tresses	T /	G4 / S2	1	0	0	0	0
incoln	Vascular Plants	Viola septemloba var. egglestonii	Eggleston's Violet	S/	G4 / S3	2	0	0	0	0
incoln	Freshwater Mussels	Pleurobema clava	Clubshell	E/LE	G2 / S1	0	0	0	1	0
incoln	Freshwater Mussels	Simpsonaias ambigua	Salamander Mussel	T / SOMC	G3 / S2S3	0	0	2	0	0
incoln	Freshwater Mussels	Toxolasma lividus	Purple Lilliput	E/SOMC	G2 / S1	0	0	1	0	0
incoln	Freshwater Mussels	Villosa lienosa	Little Spectaclecase	S/	G5 / S3S4	0	0	6	2	0
incoln	Freshwater Mussels	Villosa trabalis	Cumberland Bean	E/LE	G1 / S1	0	0	1	0	0
incoln	Fishes	Noturus stigmosus	Northern Madtom	S / SOMC	G3 / S2S3	0	1	0	0	0
Lincoln	Breeding Birds	Passerculus sandwichensis	Savannah Sparrow	S/	G5 / S2S3B,S2S3 N	1	0	0	0	0
incoln	Communities	Knobs shale barrens		/	GNR / S2S3	1	0	0	0	0
incoln	Communities	Limestone barrens		/	GNR / S2	1	0	0	0	0
incoln Cou	ınty Total:					14	3	10	3	0

Data current as of February 2009 Page 4 of 4

The data from which the county report is generated is continually updated. The date on which the report was created is in the report footer. Contact KSNPC for a current copy of the report.

Please note that the quantity and quality of data collected by the Kentucky Natural Heritage Program are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in Kentucky have never been thoroughly surveyed, and new species of plants and animals are still being discovered. For these reasons, the Kentucky Natural Heritage Program cannot provide a definitive statement on the presence, absence, or condition of biological elements in any part of Kentucky. Heritage reports summarize the existing information known to the Kentucky Natural Heritage Program at the time of the request regarding the biological elements or locations in question. They should never be regarded as final statements on the elements or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.

KSNPC appreciates the submission of any endangered species data for Kentucky from field observations. For information on data reporting or other data services provided by KSNPC, please contact the Data Manager at:

Kentucky State Nature Preserves Commission 801 Schenkel Lane Frankfort, KY 40601 (502) 573-2886 (phone) (502) 573-2355 (fax) email: naturepreserves@ky.gov internet: www.naturepreserves.ky.gov

Data current as of February 2009

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Species Information KDFWR Maps Public Hunting Area Maps

Game Maps

Download GIS Data Links

Species Information

Federal Threatened, Endangered, and Candidate Species observations for selected counties

Linked life history provided courtesy of <u>NatureServe Explorer</u>. **Records may include both recent and historical observations.**<u>US Status Definitions</u> <u>Kentucky Status Definitions</u>

List Federal Threatened, Endangered, and Candidate Species observations in 1 selected county. Selected county is: Lincoln.

Scientific Name and Life History	Common Name and Pictures	Class	County	US Status	KY Status	WAP	Reference
<u>Villosa trabalis</u>	Cumberland Bean	Bivalvia	Lincoln	LE, XN	E	Yes	Reference

1 species are listed

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U.S. Fish & Wildlife Service

Kentucky Ecological Services Field Office

U.S. Fish & Wildlife Service 330 West Broadway, Rm 265 Frankfort, KY 40601 Phone: 502-695-0468

Fax: 502-695-1024

Endangered, Threatened, & Candidate

Species in ___LINCOLN_____ County, KY

Group	Species	Common name	Legal* Status	Known** Potential	Special Comments
Mammals	Myotis sodalis	Indiana bat	E	Р	
	Myotis grisescens	gray bat	E	P	
Mussels	Villosa trabilis	Cumberlan bean pearlymussel	E	К	
*					

NOTES:

NOTES:
* Key to notations: E = Endangered, T = Threatened, C = Candidate, CH = Critical Habitat
**Key to notations: K = Known occurrence record within the county, P = Potential for the species to occur within the county based upon historic range, proximity to known occurrence records, biological, and physiographic characteristics.